

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6851**

**BILL NUMBER:** HB 1118

**NOTE PREPARED:** Jan 26, 2010

**BILL AMENDED:** Jan 26, 2010

**SUBJECT:** Nuisance Actions by Community Organizations.

**FIRST AUTHOR:** Rep. Day

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill allows a community organization within whose specific geographic boundaries a nuisance exists to bring an action under the laws governing: (1) general nuisance actions, if the community organization does not interfere with the right of a private individual to bring an action to abate or enjoin a private nuisance; (2) actions for indecent nuisances; and (3) actions for drug nuisances; as applicable. The bill makes the drug nuisance law consistent with the indecent nuisance law by adding the Attorney General to the list of prosecuting officials that may bring an action under the drug nuisance law. The bill defines "nuisance" for purposes of the unsafe building law. The bill allows a civil action under the unsafe building law to be initiated before the final date of an order or an extension of an order requiring: (1) the completion; or (2) a substantial beginning toward accomplishing the completion; of the remedial action required by the order.

The bill allows a community organization to initiate a civil action under the unsafe building law if the enforcement authority for the county or municipality has filed a civil action regarding the unsafe premises. (Current law prohibits a community organization from initiating a civil action if the enforcement authority has filed an action.) The bill provides that a community organization must provide notice of its intention to file a civil action under the unsafe building law at least 30 days (rather than 60 days under current law) before commencing the action. The bill eliminates the requirement that the notice must be given to the enforcement authority.

**Effective Date:** July 1, 2010.

**Explanation of State Expenditures:** The bill would give the Attorney General (AG) the option to initiate actions to abate nuisances. However, the AG would likely pursue additional actions only as their existing

level resources and staffing allow.

**Explanation of State Revenues:** *Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:** More actions may take place in trial, city, and town courts as a result of this provision. Current law requires a private citizen that brings an action to abate an indecent nuisance to post a bond with the court of at least \$1,000 to give to a party against which an action was brought wrongfully, not prosecuted to final judgement, dismissed, not maintained, or injunction should not have been granted. The bill would not require a community organization to post a bond before pursuing an action.

**Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** Attorney General.

**Local Agencies Affected:** Trial courts, city and town courts.

**Information Sources:**

**Fiscal Analyst:** Chris Baker, 317-232-9851.